

HOUSE BILL 3307
By Niceley

AN ACT to amend Tennessee Code Annotated, Title 39,
Chapter 14, relative to ecoterrorism.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, is amended by deleting part 8 in its entirety and by substituting instead the following language as a new part 8:

§ 39-14-801.

This part shall be known and may be cited as the "Tennessee Ecoterrorism Act."

§ 39-14-802.

As used in this part, unless the context otherwise requires:

(1) "Actor" means a person accused of any of the offenses defined in this part;

(2) "Animal" means any warm-blooded or cold-blooded animal or insect which is being used in food or fiber production, agriculture, research, testing, or education, including, but not limited to, hogs, equines, mules, cattle, sheep, goats, dogs, rabbits, poultry, fish, and bees. "Animal" does not include any animal held primarily as a pet;

(3) "Animal or plant enterprise" means:

(A) A commercial or academic enterprise that uses animals or plants for food or fiber production, agriculture, breeding, processing, research or testing, or any commercial retail, wholesale or distribution enterprise that uses, purchases, or offers for sale a product that contains animal or plant material, including timber harvesting and production;

(B) A zoo, arboretum, aquarium, circus, rodeo, or other entity that exhibits or uses animals or plants for educational or entertainment purposes; or

(C) Any fair or similar event intended to advance agricultural arts and sciences;

(4) "Avoidance costs" means costs incurred by any person for the purpose of detecting a hazardous or injurious device or preventing death, serious bodily injury, bodily injury, or property damage likely to result from the use of a hazardous or injurious device in violation of §39-14-804;

(5) "Consent" means assent in fact, whether express or implied, by the owner or by a person legally authorized to act for the owner which is not:

(A) Induced by force, threat, false pretenses, or fraud;

(B) Given by a person the actor knows, or should have known, is not legally authorized to act for the owner;

(C) Given by a person who by reason of youth, mental disease or defect, if intoxication is known, or should have been known, by the actor to be unable to make reasonable decisions; or

(D) Given solely to detect the commission of an offense;

(6) "Commissioner" means the commissioner of agriculture;

(7) "Deprive" means to unlawfully withhold from the owner or to interfere with the possession of, free, or dispose of, an animal or other property;

(8) "Enterprise facility" means any vehicle, building, structure, pasture, paddock, pond, impoundment, field, forest, or premises where an animal is kept, handled, housed, exhibited, bred, or offered for sale or a plant is kept, grown, harvested, stored, exhibited, or offered for sale and any office, building, or structure where records or documents relating to an animal or plant enterprise are maintained;

(9) "Hazardous or injurious device" means a device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any

person making contact with such device subsequent to the assembly or placement of such device including, but not limited to:

- (A) Guns attached to trip wires or other triggering mechanisms;
- (B) Ammunition mechanisms;
- (C) Ammunition or explosives attached to trip wires or other triggering mechanisms;
- (D) Sharpened stakes;
- (E) Lines or wires or lines or wires with hooks attached; or
- (F) Nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump;

(10) "Owner" means a person who has title to the property, lawful possession of the property, or a greater right to possession of the property than the actor;

(11) "Person" means any individual, corporation, association, nonprofit corporation, joint-stock company, firm, trust, partnership, two (2) or more persons having a joint or common interest, or other legal entity;

(12) "Plant" means any plant (including any plant part) used for, or that is capable of propagation, including a tree, a tissue culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, a seed, or any plant genetic material contained in bacteria, plasmids, viruses, viroids, or any vector of biological origin that has been modified for, or is capable of carrying genes into plant cells using transgenic processes, or other biological materials;

(13) "Possession" means actual care, custody, control, or management;

(14) "Property" means any real or personal property and includes any document, record, research data, paper, or computer storage medium;

(15) "State" means the state of Tennessee.

§ 39-14-803.

(a) It is an offense to, without the consent of the owner:

(1) Acquire or otherwise exercise control over an enterprise facility, an animal or plant from an enterprise facility, or other property from an enterprise facility with the intent to deprive the owner of such facility, animal, plant, or property or to disrupt the enterprise conducted at the facility; or

(2) Damage or destroy an enterprise facility or damage, free, or destroy any animal, plant, or property in or on an enterprise facility with the intent to disrupt or damage the enterprise conducted at the facility.

(b) This part does not apply to, affect, or otherwise prohibit actions taken by the department of agriculture, any other federal, state, or local department or agency, or any official, employee or agent thereof while in the exercise or performance of any power or duty imposed by law or by rule and regulation.

§ 39-14-804.

It is an offense to intentionally place a person in reasonable fear of death to, or serious bodily injury of, that person or a member of that person's immediate family by a course of conduct involving threats, property damage, trespass, harassment, or intimidation in order to damage or disrupt an animal or plant enterprise.

§ 39-14-805.

It is an offense to use a hazardous or injurious device on public lands or on private land without the owner's permission:

(a) With the intent to obstruct or harass the harvesting of timber; or

(b) With reckless disregard to the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk.

§39-14-806.

It is an offense to:

(a) Intentionally damage or destroy, or attempt to damage or destroy, any property whatsoever used in a mining or quarrying enterprise with intent, or reason to believe, that the act shall injure, interfere with, interrupt, supplant, nullify, impair, or obstruct the owner's or operator's management, operation, or control of such mining or quarrying enterprise; or

(b) Intentionally retain, or attempt or threaten unlawfully to take or retain, possession or control of any property, instrumentality, machine, mechanism, or appliance used in a mining or quarrying enterprise with intent, or reason to believe, that the act shall injure, interfere with, interrupt, supplant, nullify, impair, or obstruct the owner's or operator's management, operation, or control of such mining or quarrying enterprise.

§ 39-14-807.

Notwithstanding the provisions of § 39-12-107 to the contrary, criminal attempt, solicitation, and conspiracy are offenses equal to the offense under this part that is attempted or solicited or the offense under this part that is the object of the conspiracy.

§ 39-14-808.

(a) Any person who engages in acts prohibited by this part commits a:

(1) Class A felony, if death of an individual results; provided that the person has not committed first-degree murder as defined in §39-13-202;

(2) Class B felony, if serious bodily injury to any individual results;

(3) Class C felony:

(A) If bodily injury to any individual results;

(B) If damage to the property or avoidance costs have been incurred exceeding five hundred dollars (\$500), in the aggregate; or

(C) If a person suffers losses and increased costs individually or collectively exceeding five hundred dollars (\$500), including losses and increased costs resulting from threats, property damage, trespass, harassment or intimidation taken against such person as a result of that person's connection to, or relationship or transactions with an animal or plant enterprise. This subdivision does not apply to losses or costs resulting from lawful public, governmental, or business reaction to the disclosure of information about an animal or plant enterprise.

(4) Class B misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000), if in any other case.

(b) Any person who commits a Class B misdemeanor pursuant to this part after one or more prior convictions under subdivision (a)(4) commits a Class E felony.

§ 39-14-809.

For purposes of enforcing the provisions of this part, the commissioner:

(1) May investigate any offense under this part;

(2) May seek the assistance of any law enforcement agency of the United States, the state, or any local government in the conduct of such investigations; and

(3) Shall coordinate such investigation to the maximum extent practicable, with the investigations of any law enforcement agency of the United States, the state, or any local government.

§ 39-14-810.

(a) Any person who has been damaged by reason of a violation of this part may recover all actual and consequential damages, punitive damages, and court costs, including reasonable attorneys' fees, from the person causing such damage.

(b) In addition to the remedies provided in this part or elsewhere in the laws of this state, and notwithstanding the existence of an adequate remedy at law, any person who has been damaged or who reasonably may be damaged by reason of a violation of this part is authorized to apply to the chancery courts for an injunction or restraining order. Such courts shall have jurisdiction, and for good cause shown, shall grant a temporary or permanent injunction or a temporary restraining order to enjoin or restrain any person from violating or continuing to violate this part. Such injunction or restraining order shall be issued without bond and may be granted, notwithstanding the fact that the violation constitutes a criminal act and notwithstanding the pendency of any criminal prosecution for the same violation.

(c) Nothing in this part shall be construed to limit the exercise of any other rights arising out of or relating to a violation of this part.

§ 39-14-811.

(a) There is created within the Tennessee bureau of investigation a registry of persons convicted after July 1, 2006, of a violation of this chapter.

(b) This registry shall be maintained by the Tennessee bureau of investigation and made available for public inquiry on the Internet.

(c) The registry shall consist of the person's name, date of birth, offense or offenses making the person eligible for inclusion on the registry, the conviction date and county of those offenses, and other identifying data as the bureau of investigation determines is necessary to properly identify the person, but shall not include the person's social security number.

(d) Starting September 1, 2006, the court clerks shall forward a copy of the judgment and date of birth of all persons who are convicted of a violation of this chapter to the Tennessee bureau of investigation. The information shall be forwarded to the bureau within forty-five (45) days of the date of judgment.

(e) The Tennessee bureau of investigation shall remove from the registry the name and other identifying information of persons who are convicted of a violation of this chapter three (3) years after the date of the most recent judgment.

§ 39-14-812.

Nothing in the part shall be interpreted as permitting criminal prosecution or the award of injunctive relief or other civil remedies in violation of the constitutional rights of persons to speak freely, to picket, and to conduct other lawful activities of protest.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2006 the public welfare requiring it.